

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. FIFRA-08-2003-0010

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Bauserman Farms, Inc.)	FINAL ORDER
11786 Highway 50)	
Manzanola, Colorado 81158,)	
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)	
RESPONDENT)	
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Pursuant to 40 C.F.R. § 22.18(c) of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Consent Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Consent Order.

So ORDERED, this 2ND day of July, 2003.

SIGNED

Alfred C. Smith
Regional Judicial Officer

Docket No. FIFRA-08-2003-0010

Complainant, United States Environmental Protection Agency,
Region VIII ("EPA"), and Bauserman Farms, Inc., ("Respondent"),
by their undersigned representative(s), hereby consent and agree
as follows:

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided for in 40 C.F.R. section 22.18(b) (2).
2. The Complaint filed in this matter alleges that Respondent failed to display specific pesticide application information and failed to display specific emergency medical information, as required by the Worker Protection Standard ("WPS"), codified in 40 C.F.R. part 170, in violation of Section 12(a) (2) (G) of FIFRA, 7 U.S.C. section 136j(a) (2) (G).

3. This Consent Agreement (hereafter the "Consent Agreement") applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.
4. Respondent waives its right to a hearing on any issue of law or fact set forth in this Pleading.
5. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained in the Complaint filed in this matter.

II. TERMS OF SETTLEMENT

6. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the Complaint to THREE THOUSAND SIX HUNDRED AND SIXTY DOLLARS (\$3,660).
7. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph 8 below.
8. Respondent agrees to pay a penalty in the amount of THREE THOUSAND SIX HUNDRED AND SIXTY DOLLARS (\$3,660).

9. Respondent agrees to pay the above stated penalty amount in EIGHT (8) installments of FOUR HUNDRED FIFTY-SEVEN DOLLARS (\$457) per installment. Respondent specifically agrees that should it be delinquent with any installment payment, interest due shall be calculated from the date of the first installment payment date. Such interest calculation is non-discretionary and required by federal government debt collection procedures.
10. The first penalty installment of \$457 is due on or before September 1, 2003. This payment shall be made by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region VIII
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA. 15251

The second penalty installment of \$457 is due on or before December 1, 2003. The third penalty installment of \$457 is due on or before March 1, 2004. The fourth installment payment of \$457 is due June 1, 2004. The fifth installment payment of \$457 is due September 1, 2004. The sixth installment payment of \$457 is due December 1, 2004. The seventh installment payment of \$457 is due March 1, 2005. The eighth and final installment payment of \$457 is due June 1, 2005. Respondent shall make these **eight** installment

payments by remitting a cashier's or certified check for the specified amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region VIII
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA. 15251

Each check shall reference the name and address of Respondent's facility and the EPA docket number (Docket No. FIFRA-08-2003-0010) of this action. A copy of the check shall be sent simultaneously to:

Tim Osag
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

11. Respondent agrees and consents that if Respondent fails to pay the penalty amount on the due dates set forth in paragraph ten (10) above, the full penalty amount of THREE THOUSAND SIX HUNDRED AND SIXTY DOLLARS (\$3,660) or any unpaid balance thereof, shall become due and owing by the Respondent, or, EPA in its sole discretion, may waive all or part of such acceleration. Furthermore, in the event timely payment is not made, consistent with Paragraph 10 above, interest on the penalty amount or any unpaid balance shall accrue at a rate established by the Secretary of the

Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid by the due dates set forth in Paragraph 9 above.

12. This Agreement shall not relieve Respondent of their obligation to comply with all applicable provisions of federal, state or local law.
13. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaints filed in these matters.
14. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Pleading and to execute and legally bind that party to this Pleading.
15. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Pleading.

IN THE MATTER OF: Bauserman Farms, Inc.,
Docket No. FIFRA-08-2003-0010

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE, AND
ENVIRONMENTAL JUSTICE,

Complainant.

Date: 7/2/03 By: David J. Janik
Michael T. Risner, Director
David J. Janik, Supervisory
Enforcement Attorney
Legal Enforcement Program

Date: 7/2/03 By: SIGNED
Elisabeth Evans, Director
Technical Enforcement Program

Date: 7/1/2003 By: SIGNED
Eduardo Quintana
Enforcement Attorney
Legal Enforcement Program
Phone: (303)-312-6924
FAX: (303) 312-6953

IN THE MATTER OF: Bauserman Farms, Inc.,
Docket No. FIFRA-08-2003-0010

Bauserman Farms, Inc.,
Respondent.

Date: 7/1/03 By: **SIGNED**
NAME: Steve Bauserman
TITLE: President, Bauserman Farms, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **BAUSERMAN FARMS, INC., DOCKET NO.: FIFRA-08-2003-0010** was filed with the Regional Hearing Clerk on July 2, 2003.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on July 2, 2003, to:

Steve Bauserman, President
Bauserman Farms, Inc.
11786 Highway 50
Manzanola, CO 81158

July 2, 2003

SIGNED

Tina Artemis
Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JULY 2, 2003.

